

UNIT 47 RESPONSIBILITY

(Blueprint 19 — 4/1/91)

UNIT CERTIFICATION

Statement of Completion

_____ has satisfactorily completed on-the-job training in the duty or duties of this Unit under the conditions described below and in accordance with the overall standard(s) for this Unit.

Duty	Determine and document the responsibility or nonresponsibility of a prospective contractor.
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Conditions	Given a solicitation, several offers, the List of Parties Excluded From Procurement Programs, and the results of market research and acquisition histories
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Overall Standard(s)	Awards contracts only to those firms which are reasonably certain of being capable of effective performance in compliance with all terms and conditions of the contract.
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Evaluator

Name

Title

Date

UNIT 47 RESPONSIBILITY

DOCUMENTATION OF OJT ASSIGNMENT(S)
Description of Assignment:
Evaluation:
Completion Date:

UNIT 47 RESPONSIBILITY

Policies

<i>FAR</i>	<i>Agency S.</i>	<i>Subject</i>
3.103-2		Evaluating the Certificate of Independent Price Determination.
3.406 3.407 3.409		Determining whether a prospective contractor is not eligible for award when the contractor has a contingent fee arrangement with a third party.
9.1		Policies on responsibility, including the general and special standards of responsibility.
9.400-405; 9.405; 9.408		No award to excluded parties.
9.6		Evaluating proposed contractor team arrangements.
9.7		Evaluating proposed pooling arrangements.
14.404-2(g) 14.404-2(h) 14.404-2(k)		Rejecting bids from nonresponsible bidders.
19.1 19.301		Eligibility for set asides.
19.6		Certificates of competency.
22.606 through 22.608		Eligibility as a manufacturer or regular dealer under the Walsh-Healy Act.
22.8		EEO clearances.
22.1025		Ineligibility under the Service Contract Act.
23.1		No contracts with firms proposing to use facilities that are in violation of the Air or Water Acts.
23.5		Drug free workplace requirements for eligibility.
32.107		Don't use an offeror's need for contract financing as a responsibility factor.
35.008(c) 37.108		Applicability of COC's to R&D and service contracts.
37.109		No contracts with Pinkerton Detective Agencies or like organizations.
52.203-2		Certificate of independent price determination.
52.203-4 52.203-5		Contingent fee arrangements.
52.209-5		Certification regarding debarment, suspension, proposed debarment, and other responsibility matters.
52.209-8		Ineligibility for failure to certify absence of actual or potential conflict of interest or unfair competitive advantage exists (when acquiring advisory or assistance services).
52.214-8 52.215-6		Parent company and identifying data; type of business
52.214-10 52.215-16		Contract award.
52.214-17		Affiliated bidders.
52.222-19		Walsh-Healy representation.
52.222-24		Pre-award on-site EEO compliance review.
52.223-1		Clean air and water certification.
52.223-5		Drug free certification.
52.247-6		Requirement to submit a financial statement, as a basis for determining responsibility.

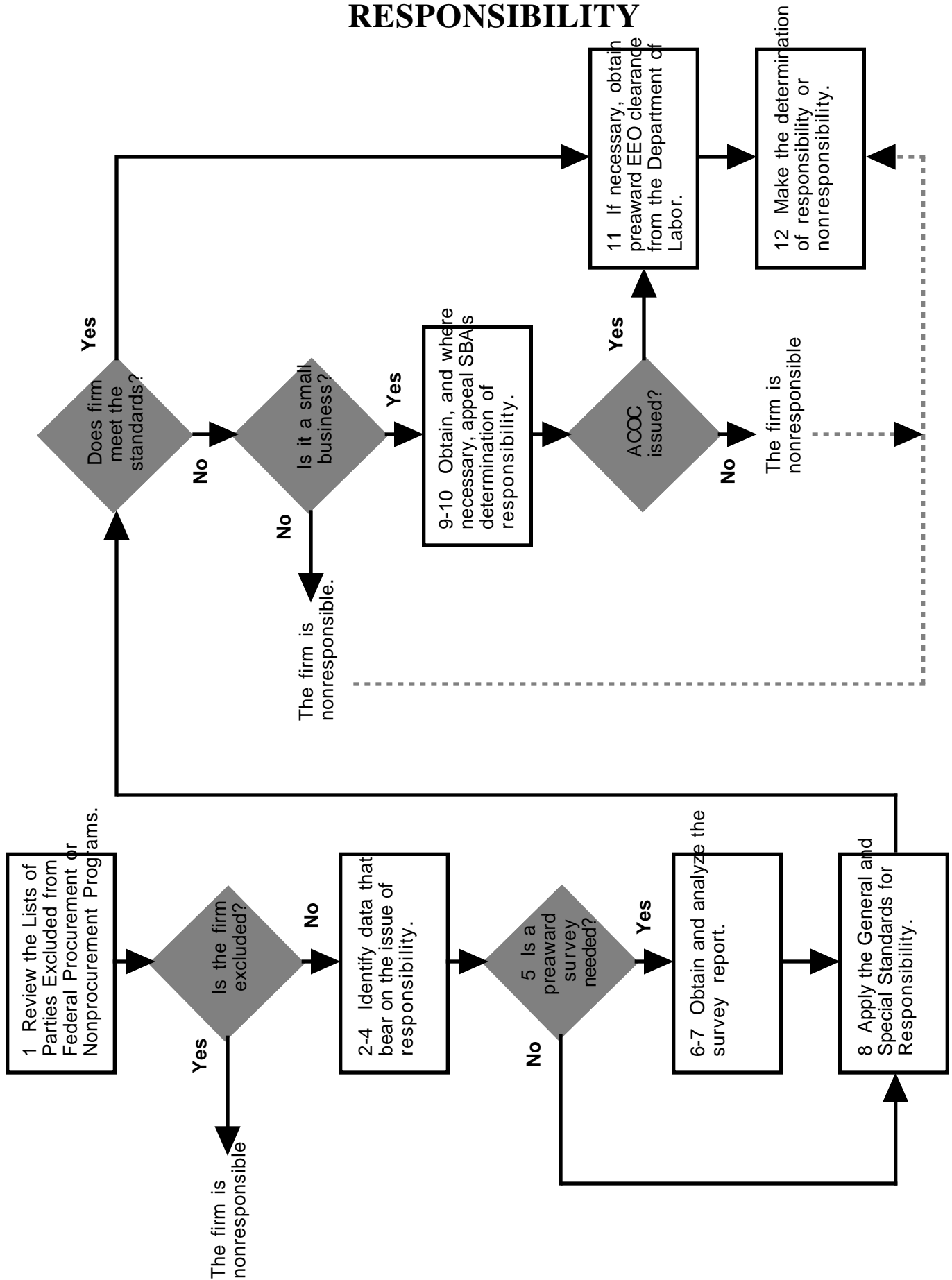
UNIT 47 RESPONSIBILITY

Other KSA's

1. Knowledge of environmental and labor laws, with respect to eligibility for award; knowledge of fraud with respect to applying the general standard on integrity (from Business Law).
2. Knowledge of types of financial assets; creation and transfer of financial assets; financial institutions; markets and securities; interest rates; and financing methods, in terms of applying the General Standard for financial responsibility (e.g., from Business Finance).
3. Knowledge of techniques for analyzing financial statements (e.g., ratio analysis, firm standards vs. industry-wide averages, interrelationship of ratios and trends, funds flow analysis, analysis of additional information in annual reports, such as auditor opinions, notes, full disclosure, comparative statements, and SEC reports), in terms of applying the General Standard for financial responsibility (e.g., from Business Finance and Accounting).
4. Knowledge of financial forecasts and plans (e.g., forecasting techniques; applicable data from income, cash flow, and balance sheets; financial plans and budgets; working capital management; and raising intermediate and long-term funds), in terms of applying the General Standard for financial responsibility (e.g., from Business Finance).
5. Knowledge of accounting records and systems, responsibility centers, accounting information in management control (e.g., controllable costs; engineered, discretionary, and committed costs), programming and budgeting, and analyzing and reporting performance (e.g., production cost variances, other variances, analysis of variances, control steps, and steps in the control process), in terms of applying the General Standard on organizational responsibility (e.g., from Accounting).
6. Knowledge of market channels and middlemen, in terms of ascertaining eligibility under Walsh-Healy and evaluating contingent fee arrangements (from Marketing).
8. Knowledge of control, advanced control techniques, control of overall performance, and control of management quality, in terms of applying the General Standard on organizational responsibility (e.g., from Organization and Management).
9. Knowledge of production and operations planning (e.g., demand forecasting, capacity planning, inventory replenishment, production scheduling and leveling, network planning, PERT/CPM, critical path, probabilistic network methods, and deployment of resources), in terms of applying the General Standards on delivery, organizational and technical capabilities (e.g., from Industrial Management).
10. Knowledge of organization for production (e.g., process and job design, facility layout, and work measurement) and logistics (e.g., elements, storage, transportation, and distribution), in terms of applying the General Standards on organizational and technical responsibility (e.g., from Industrial Management).
7. Skill at communicating and exercising leadership in working with preaward survey activities and with SBA on COC's (from Organization and Management).

Other Policies and References (Annotate As Necessary):

RESPONSIBILITY



UNIT 47 RESPONSIBILITY

Tasks

Related Standards

<p>1. Review the List of Parties Excluded From Federal Procurement and Nonprocurement Programs to determine that the contractor (either by corporate name or names of principal officers) is not debarred, suspended, proposed for debarment, or otherwise ineligible for the contract.</p> <ul style="list-style-type: none"> Also review the List to ensure that no proposed subcontractor is debarred, suspended, or ineligible for the subcontract: <ul style="list-style-type: none"> Identify any such subcontractors to the offeror in writing. Require the offeror to obtain a different, more acceptable subcontractor to be eligible for award. When there are compelling reasons for continuing business dealings with a debarred, suspended, or ineligible contractor, prepare justification for signature by the agency head or designee. 	<p>1. Do not award to any contractor or subcontractor which is debarred, suspended, or proposed for debarment, absent compelling reasons. Under the conditions and for the period stipulated in the statute or regulation at issue, do not award to contractors or subcontractors excluded by reason of ineligibility.</p>
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“List of Parties Excluded from Federal Procurement and Nonprocurement Programs”

☞ Before awarding a contract, contracting officers must check the General Services Administration (GSA) “List of Parties Excluded from Procurement Programs” and the **new** GSA reciprocal “List of Parties Excluded from Federal Procurement and Nonprocurement Programs.” Organizations suspended, debarred, or otherwise excluded from “nonprocurement transactions” are now also ineligible for Federal contracts and vice versa. Examples of nonprocurement transactions are grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, loan guarantees, subsidies, insurance, payments for specified use, and donation agreements. [§9.4, FAC 90-28, CSW Unit 47, Task 1]

Historically, GSA maintained two separate lists of parties that are prohibited from receiving Government contracts (the Procurement List) and benefits such as grants and cooperative agreements (the Non-Procurement List). Parties on the Non-Procurement List were eligible to receive contracts as long as their names were not also on the Procurement List, and vice versa. Starting on August 25, 1995, newly initiated suspension and debarment actions will apply equally to procurement and nonprocurement transactions if the Agency Debarring Official issues an appropriate notification letter.

GSA will maintain three lists until all suspensions and debarments have Governmentwide effect on both procurement and nonprocurement transactions. Eventually, there will only be one unified reciprocal list.

UNIT 47 RESPONSIBILITY

Tasks	Related Standards
2. Identify data in the offer that bear on the issue of responsibility (e.g., The Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters, other certifications and representations, and information specifically requested).	2. Identify all evidence of possible nonresponsibility (e.g., failure to certify that it will provide a drug free workplace; a representation that the firm is not a manufacturer or regular dealer under Walsh-Healy).
3. Identify data from acquisition histories that bear on the issue of responsibility (from Unit 5).	3. Identify all available evidence of possible nonresponsibility, including data from acquisition histories in: <ul style="list-style-type: none"> • The agency's contract offices. • Audit and IG offices. • Contract offices in other agencies.
4. Identify secondary data from market research that bear on the issue of responsibility (from Unit 5).	4. Identify all available evidence of possible nonresponsibility, including data from such sources as: <ul style="list-style-type: none"> • Publications. • Suppliers, subcontractors, and customers of prospective contractor. • Financial institutions (e.g., Dun and Bradstreet). • Business and trade associations.
5. Determine whether to request a preaward survey.	5. Request a survey only when there is net benefit (given the cost of surveys) in obtaining data to verify the responsibility of marginal companies or companies for which data are insufficient. (On this basis, generally avoid requesting surveys when the contemplated contract is estimated at under \$25,000 or is a fixed price contract for commercial products under \$100,000.)

No Preaward Surveys When Acquiring Commercial Items



Do NOT request a preaward survey if the contemplated contract involves the acquisition of commercial items, unless circumstances justify the cost. The previous criterion: a contemplated contract with a fixed price of less than \$100,000 that involves commercial items. [§9.106-1 , FAC 90-32, Case 94-970]

UNIT 47 RESPONSIBILITY

Tasks


Related Standards

<p>6. Prepare and forward request for preaward survey. Subtasks:</p> <ul style="list-style-type: none"> • Complete sections I and II of SF 1403 (Preaward Survey of Prospective Contractor). • Address major factors to be investigated (Section III of SF 1403) and identify any factors not listed in Section III. • Include the complete solicitation package and any information indicating prior unsatisfactory performance (from Unit 5, research of acquisition histories and market). • State whether the contracting office will participate in the survey. • Complete and enclose any other standard or agency form for use by the surveyors. • Identify the date when the survey is required. 	<p>6. Correctly complete the SF 1403. The due date should be commensurate with the scope of the requested survey; normally allow at least seven working days for conduct of the survey.</p>
<p>7. Review finished survey report to identify any omissions or deficiencies and followup questions for survey team members. Such reviews may include:</p> <ul style="list-style-type: none"> • SF 1403 and the appropriate SF on each major factor. • SBA contact when prospective contractor is small business/8(a) or has received a Certificate of Competency in the last 12 months. • Discussion of extent of contractor action to correct past poor performance disclosed by the survey. • Short form report (Sections III and IV of SF 1403) when (a) no special areas of investigation have been requested, (b) no on-site survey was conducted, and (c) surveying activity has information on hand supporting the recommendation for award. 	<p>7. Identify any omission. Identify any conclusions not validly derived or fully supported by furnished data. Identify any conclusion or supporting data that are inconsistent with other data.</p>
<p>8. Apply General and Special Standards for Responsibility to assembled data.</p> <ul style="list-style-type: none"> • Any Special Standard for the procurement. • Adequate financial resources to perform or the ability to obtain them. • Ability to comply with delivery or performance schedule. • Satisfactory performance record. • Satisfactory record of integrity. • Necessary organization, experience, accounting and operational controls and technical skills, or the ability to obtain them. • Necessary production, construction, and technical facilities or equipment, or the ability to obtain them. • Otherwise qualified and eligible to receive an award 	<p>8. Apply all standards in FAR 9.104. Do not consider the offeror otherwise qualified and eligible to receive the award if:</p> <ul style="list-style-type: none"> • It plans on using facilities in violation of the Clean Air and Water Acts • It has not certified to providing a drug-free workplace • It is a Pinkerton Detective Agency or like organization. • It is not eligible for award under other applicable laws and regulations.

UNIT 47 RESPONSIBILITY


Tasks

Related Standards

 When performing the **following** functions, the FAR requires contracting officers to separately consider the interests of women-owned small business concerns (kindred to the consideration provided to the interests of small disadvantaged business concerns and to small business concerns generally). [FAC 90-32, Case 94-780]

- *Responsibility* — Considering past performance pursuant to §9.104-3(c), in terms of accomplishing goals for subcontracting with women-owned businesses in subcontracting plans.

Past Performance As A Responsibility Factor

 Contracting officers must consider “relevant past performance information” collected pursuant to subpart 42.15. However, contracting officers may not call a vendor “nonresponsible” solely on the basis of a lack of relevant performance history “except as provided in 9.104-2”. [§9.104-2, FAC 90-26].

<p>9. If a determination of nonresponsibility is contemplated for a responsive small business, refer award to SBA. Subtasks:</p> <ul style="list-style-type: none"> • Withhold contract award. • Refer the matter to the cognizant SBA Regional Office (which will offer the concern an opportunity to apply for a Certificate of Competency). • If SBA denies the firm's application for a Certificate of Competency (COC) or does not issued the Certificate within 15 days (or within the period that SBA has negotiated with you), award the contract to the next responsible offeror in line for award. 	<p>9. Do not refer the award to SBA if the contractor is suspended or debarred or if the contractor is not otherwise qualified and eligible to receive an award under applicable laws and regulations per 9.104-1(g). The referral consists of a notice that the small business concern has been determined to be non-responsible, specifying the element of responsibility found lacking, along with data supporting the determination (e.g., a copy of the solicitation, drawings and specifications, preaward survey findings, etc.).</p>
<p>10. Upon receiving the advance notice from the Regional Office of intent to issue a COC, determine whether to file an appeal to the SBA Central Office.</p>	<p>10. If the decision is to appeal:</p> <ul style="list-style-type: none"> • Provide factual data to support the case for denying the application for a COC. • Identify other responsible small businesses in line for award.
<p>11. Obtain preaward EEO clearance from the Department of Labor for contracts and subcontracts of \$1 million or more.</p>	

UNIT 47 RESPONSIBILITY

Tasks

Related Standards

<p>12. Make the determination of responsibility or nonresponsibility.</p> <ul style="list-style-type: none">• CO's signing of a contract or a Certificate of Competency constitutes a determination that prospective contractor is responsible.• For non-responsible determination, prepare written basis and include in contract file.	<p>12. Validly derive all conclusions from factual data provided in the written memorandum to the file. SBA COC's are deemed conclusive with respect to all elements of responsibility.</p>
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